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Human rights situations that require the Council's attention

Written statement* submitted by the International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The situation of the Sikh people in the Punjab*

International Educational Development, Inc., the Association of Humanitarian Lawyers, and Sikhs for Justice have been concerned about the situation of the Sikh people for many years. In our previous written statement (A/HLP/26/NGO/9 and A/HLP/26/NGO/9/Corr.1) we informed the Council that during the 30 years since the attacks by the Indian military forces on the Golden Temple in Amritsar, Sikhs are still subjected to arrest and torture. Freedom of assembly and opinion are denied. A number of Sikh leaders have disappeared after being taken into custody. Participants in the 1984 events have been promoted to key positions in the Sikh areas, notably Sumedh Saini who was promoted to the post of Director General of Police in Punjab in 2012. Sikh leaders, organizations and publications are monitored, and the people threatened with the "terrorist" label if they publicly promote any form of autonomy.

The continuing violations today have the same aim as the 1984 attack --to target the leadership of the movement for right to self-determination and to obliterate the Sikh culture. Since 1984, much of the Sikh leadership and thousands of Sikh people have sought and received political asylum in many countries: the destruction of the Sikh Library and other Sikh facilities in the region have proved to be devastating to the Sikh cultural history and identity.

Unfortunately, neither the 1984 action by the Indian military forces nor the continued violations of basic human rights of the Sikh people have been the subject of meaningful inquiry by relevant United Nations bodies. This is troubling due to the fact that the Sikh claim the right to self-determination and the right to self-determination is a norm of *jus cogens*. As we set out in the above-cited written statement, the Sikh claim to self-determination clearly meets the five part test for self-determination: an identifiable territory; a history of self-governance in that territory; a distinct culture involving religion, language, social and other characteristics; a will for self-governance; and the capacity for self-governance.

- The Sikh Nation developed a national consciousness in the 17th century and established an independent and sovereign state in 1765 governed by Sikh rulers. This independent and sovereign Sikh state comprised the areas and territories of the currently Indian-held state of Punjab. The territory and leadership of the sovereign Sikh State was recognized by Great Britain and other European and Asian states until its conquest by the British in 1849 when it was the was the last nation to fall in the British conquest of the Indian subcontinent.

- The Sikh people of the Punjab have distinct religious, social, culture and linguistic characteristics.

- The Sikh people have shown a strong desire for sovereignty ever since the British left, and have worked continually for that end.

- The Sikh people clearly have the capacity for self-governance.

We regret that Human Rights Council has dropped the right to self-determination as a separate agenda item, leading to near silence when a people, such as the Sikhs, set out such a strong claim to the right. The failure of the Council to review a peoples' serious claims of self-determination has regrettably been a cause of serious violations of human rights and even mass atrocities of the peoples in their historic homelands. Recent attempts to remedy certain situations, including that of the Tamil people in Sri Lanka and the various ethnic nationalities in Myanmar such as the Rohingya people, have been far too little and far too late. We do not want the same tragic results in the Sikh homeland.

Part of the ongoing problem with the Sikh people in the Punjab besides that of the failure to recognize the legitimate claim to self-determination is that Sikhism as a distinct religion or culture is not fully recognized in India. Article 25 of the Constitution purports to grant freedom on religion in India, but a series of rulings by India's Supreme Court has upheld curtailing rights and has proclaimed that Sikhism is a form of Hinduism and part of what it refers to in a 2005 decision as the "Hindu fold" as an "Indic" religion.[1] In our view, this categorization of the Sikhs and the Sikh religion

[1] For discussion of this and other cases, *see* Ronojoy Sen, "Legalizing Religion: the Indian Supreme Court and Secularism," East-West Center Policy Studies 30 (2007) in which the author argues that the Court, in what he calls the "Hindutva judgments" has "consistently homogenized and rationalized religion" and strengthened Hindu nationalism to the severe detriment of minorities. The Hindutva group is militantly Hindu and vows to clear India of

as a form of Hinduism is to undermine the strong claim to self-determination based on a distinct religion and culture in the historic territory. Sikhs who object to being considered "Hindu" in the poorly disguised attempt to deny their self-determination claims are at great risk. India uses the concept of territorial integrity to keep the international community away from an honest reading of the history of the area.

The election of Narendra Modi does not bode well for the Sikhs in the Punjab. Mr. Modi was soundly condemned while Chief Minister of Gujarat when he closed over 2000 police cases against non-Hindu religious minorities who were killed, beaten, raped and had their properties destroyed in riots. As a result of this the Supreme Court of India ordered the reopening of the cases, calling Mr. Modi a "modern day Nero."[2] Mr. Modi, a member of the Bharatiya Janata Party (BJP), won the election with strong support of the "Hindutva" faction of the party. He ended his campaign in Varanasi, a stronghold of Hindu nationalism. While he has apparently tempered his views on Hindu nationalism while abroad or with the international community, our organizations are not convinced that he has truly modified his views or his plans to reinforce Hindu nationalism in India.

The Sikh people in the Punjab and the Sikh communities in the diaspora have indicated over and over that Sikhs are not safe under the control of the India government. The numbers of disappeared and threats against them are escalating. Sikhs continue to seek and receive asylum based on clear evidence of persecution. They are now beginning to openly demonstrate against the Indian authorities claiming that their will in regards to governance is not granted and that they demand a way to show their political wishes by some form of referendum. This, of course, is likely to create serious problems in retaliation by the authorities and has led to escalating violence. India tries to keep this away from the international community by threats to the local media and by continuing to "polish" Mr. Modi's image. Nonetheless, there have been numerous rallies of Sikh people in the diaspora, and during Mr. Nodi's trips abroad he has even tried to intervene against the Sikh communities in the host countries in a way that we consider intervening in a States domestic affairs.

We urge the Council and the relevant mandate holders to look into the situation of the Sikh people in the Punjab and to formulate solutions, such as a referendum, to determine their political will. In our view, in light of the Sikh's right to self-determination, there is no solution to the situation unless there is such a referendum and, if the Sikhs vote for independence, the international community demands realization of this outcome. Surely no one wants yet another "far too little, far too late" tragedy.

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*Association of Humanitarian Lawyers and Sikhs for Justice, NGOs without consultative status, also share the views expressed in this statement.

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non-Hindu people of force their conversion to Hinduism. They have also led the laws criminalizing the conversion by Hindus to other religions. These laws are now enacted in a number of Indian states.

[2] Representative John Conyers reported on this in the Congressional Record of March 16, 2005, and expressing grave concerns about Mr. Modi, denounced his public openness about his intolerance of non-Hindu people.